

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

HANS A. QUAACK, ATTILIO PO  
and KARL LEIBINGER, on behalf of  
themselves and those similarly situated,

Plaintiffs,

v.

DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendant.

No.: 03-CV-11566 (PBS)

STONINGTON PARTNERS, INC., a Delaware  
Corporation, STONINGTON CAPITAL  
APPRECIATION 1994 FUND L.P., a Delaware  
Partnership and STONINGTON HOLDINGS,  
L.L.C., a Delaware limited liability company,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendant.

No.: 04-CV-10411 (PBS)

GARY B. FILLER and LAWRENCE PERLMAN,  
Trustees of the TRA Rights Trust,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

No.: 04-CV-10477 (PBS)

JANET BAKER and JAMES BAKER,  
JKBAKER LLC and JMBAKER LLC,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

No.: 04-CV-10501 (PBS)

**PLAINTIFFS' MEMORANDUM IN OPPOSITION TO  
DEXIA'S EMERGENCY MOTION FOR A PROTECTIVE ORDER**

Plaintiffs respectfully submit this Memorandum in Opposition to Dexia's Emergency Motion for a Protective Order, and incorporate herein the arguments set forth in the Memorandum in Support of Plaintiffs' Motion to Compel, filed on February 24, 2006. Dexia offers two reasons why it cannot proceed with the depositions at issue. Both lack merit.

First, Dexia suggests that it will be prejudiced because it cannot determine the issues on which its witnesses will be examined. This is nonsense. Dexia knows full well the claims and issues that will be the subject of these depositions. Dexia's insider trading in L&H securities and the analyst reports issued by Artesia Banking Corporation and Artesia Securities (Dexia's corporate predecessors), which are the issues that underlie the additional allegations in Class Plaintiffs' proposed Third Amended Complaint, have always been relevant to all Plaintiffs' claims in these litigations. Indeed, had they not, Dexia would never have produced the documents that caused the Class Plaintiffs to propose filing the Third Amended Complaint. Plaintiffs served their document requests almost one year ago, and Dexia never contended that these issues or documents were not relevant to the claims that the Court has already sustained. There is simply no reason why Plaintiffs cannot examine Dexia's employees about Dexia's own

documents.

Moreover, it is axiomatic that, in conducting these depositions, Plaintiffs are entitled to examine the witnesses on any potentially relevant topics, as long as that inquiry does not ask the deponent to reveal privileged information. See Fed.R.Civ.P. 30(d)(1). Pursuant to Rule 30(c), Dexia can object to these questions on the grounds of relevance, and thereby preserve its objection on this ground, but cannot instruct the witness not to answer. Accordingly, the Federal Rules of Civil Procedure already provide Dexia with the means to object to questions on grounds of relevancy – they do not allow a party to unilaterally adjourn depositions because it does not wish to have its employees deposed.

Second, Dexia's counsel claims that the burden of motion practice makes it impossible for it to prepare for and attend depositions in Belgium. Dexia offers nothing to support this claim which, given the size and resources of its counsel, is absurd. For one thing, Dexia's opposition to the motion for leave to amend is due this Thursday – four days before the first deposition is scheduled. The suggestion that Clifford Chance LLP cannot simultaneously respond to two motions (which significantly overlap) while defending a handful of depositions (most of which will occur after the motions are briefed) warrants no further response. To the extent that travel to Belgium presents an issue for its counsel, Plaintiffs have offered to conduct these depositions in New York. Tellingly, Dexia's counsel has not accepted that offer.

Moreover, Dexia is flat wrong when it says that Plaintiffs will not suffer any prejudice in the event these depositions are adjourned until May. The Scheduling Order provides for discovery to be complete by June 16, and if depositions in this case are not allowed to proceed until May the Schedule cannot be met. Further, Plaintiffs have paid tens of thousands of dollars for expedited translation of foreign language documents in preparation for these depositions, and

may also incur substantial cancellation fees for travel, court reports, and translators if these depositions are adjourned.

In truth, it is neither the proposed Third Amended Complaint nor the Class Plaintiffs' pending motions to amend their complaint and to request remand of the pending First Circuit appeal that motivated Dexia to unilaterally adjourn these depositions. Rather, this is simply another attempt by Dexia to avoid having its employees provide sworn testimony about their role in the L&H fraud. Judge Saris summarily rejected Dexia's last attempt to do so, when the Court denied Dexia's motion for a stay. Dexia's most recent effort to evade discovery should be similarly rejected.

For these reasons, Plaintiffs respectfully request that the Court deny Dexia's Motion for a Protective Order, and grant Plaintiffs Motion to Compel Dexia to produce Messrs. Van Riet, Steverlynck, Saverys, Probst and Piret for their scheduled depositions.

Dated: February 27, 2006

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, hereby certify that on this 27<sup>th</sup> day of February, 2006, a true and correct copy of the foregoing was served via electronic means, upon counsel listed on the attached service list and also via U.S. Mail on counsel for Dexia Bank Belgium identified on the attached list.

/s/ George R. Coe



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